

Disclosure Requirement for Intangible Expenses**[Public Chapter 924 \(2004\)](#)****Excise tax
notice
#04-32**

Effective for tax periods beginning on or after January 1, 2004, [Public Chapter 924, Acts of 2004](#), amends Tenn. Code Ann. Sections 67-4-2006(b)(1) and (2) relative to the disclosure of intangible expenses paid to an affiliated company for excise tax purposes.

Under the provisions of Public Chapter 924, a taxpayer must disclose as an addition to the taxpayer's net earnings or net losses on Schedule J of the franchise and excise tax return any otherwise deductible intangible expense paid, accrued or incurred in connection with a transaction with one or more affiliated business entities. The taxpayer must also complete an informational schedule as required by the Commissioner. This schedule should be on the department's Web site by September 2004 and will be included in the franchise and excise tax return.

If the intangible expense is added back in Schedule J and the informational schedule is properly completed, then the taxpayer will be allowed to take the intangible expense as a deduction from the taxpayer's net earnings or net losses on Schedule J.

If a taxpayer fails to make the disclosure and underpays its excise tax liability, the taxpayer will be subject to a 50% negligence penalty imposed on the amount of any underpayment (see Public Chapter 786).

Intangible expenses are defined as expenses related to, or in connection with, the acquisition, use, maintenance or management, ownership, sale, exchange, license, or any other disposition of intangible property such as patents, trademarks, franchise rights, etc. to the extent such amounts are allowed or allowable as deductions or costs in determining federal taxable income.

An affiliated company is one in which the taxpayer has more than 50% ownership interest, one that has more than 50% ownership interest in the taxpayer, or one in which the taxpayer's parent company has more than 50% ownership interest.

If you have any questions about this notice, you may contact the department. Tennessee residents outside the Nashville calling area may call our statewide toll-free number at (800) 397-8395. Callers from Nashville or out-of-state may dial (615) 253-0700. You can access additional information on our Web site at www.Tennessee.gov/revenue.

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